

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MELVIN ANDERSON,

Petitioner,

Case Number: 2:07-CV-12154

v.

HON. GEORGE CARAM STEEH

JAN J. TROMBLEY,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR SANCTIONS

Petitioner Melvin Anderson filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. §2254. Now before the Court is Petitioner's Motion for Sanctions.

Petitioner asks the Court to impose "punitive sanctions" on Respondent because Respondent failed to timely file an answer in opposition to the habeas corpus petition. Petitioner filed his habeas corpus petition on May 18, 2007. The Court issued an Order requiring Respondent to file a responsive pleading by November 28, 2007. On November 29, 2007, Respondent filed an answer and a motion for leave to file the late answer, which the Court granted. Respondent filed the relevant state court record on December 26, 2007.

Where a respondent fails to timely file a response, the Court may refuse to consider the untimely response, or the Court may find that the respondent waives all procedural defenses, with the exception of the exhaustion requirement, which, pursuant to 28 U.S.C. § 2254(b)(3), is preserved absent express waiver by the State. *See Bennett v. Collins*, 835 F. Supp. 930, 936-37 (E.D. Tex. 1993). In the pending case, Respondent's answer was filed only one day late and the relevant state court record was filed only four weeks late. The Court finds that this delay, while

not to be condoned or excused, was not so extreme as to warrant sanctions.

Accordingly, **IT IS ORDERED** that Petitioner's Motion for Sanctions [dkt. #8] is **DENIED**.

Dated: April 3, 2008

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
April 3, 2008, by electronic and/or ordinary mail.

S/Josephine Chaffee
Deputy Clerk